



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 03-22270-Civ-Gold/Simonton

**AMAZON.COM, INC., a Delaware
corporation,**

Plaintiff,

vs.

**ROCKIN TIME HOLDINGS, INC., a
Florida corporation, and JOHN DOES
1-20**

Defendants.

_____/

ANSWER AND DEFENSES

Plaintiff/Counter-Defendant Amazon.com, Inc. ("Amazon.com") answers the Counterclaim of Defendant/Counter-Plaintiff Rockin Time Holdings, Inc. ("RTHI") as follows. All allegations not specifically admitted are denied.

1. Answering paragraph 1, Amazon.com admits the allegations therein.
2. Answering paragraph 2, Amazon.com admits the allegations therein.
3. Answering paragraph 3, Amazon.com denies each and every allegation therein.
4. Answering paragraph 4, Amazon.com admits the allegations therein.
5. Answering paragraph 5, Amazon.com denies each and every allegation therein.

Case No. 03-2227–Civ-Gold/Simonton

6. Answering paragraph 6, Amazon.com admits that it issued a press release on August 26, 2003 on its website www.amazon.com and that Exhibit 1 to RTHI's counterclaim appears to a copy of that press release. Amazon.com denies each and every other or different allegation in this paragraph.

7. Answering paragraph 7, Amazon.com admits that it issued a press release on August 26, 2003 on its website www.amazon.com and that the press release speaks for itself. Amazon.com denies each and every other or different allegation in this paragraph.

8. Answering paragraph 8, Amazon.com admits that it issued a press release on August 26, 2003 on its website www.amazon.com and that the press release speaks for itself. Amazon.com denies each and every other or different allegation in this paragraph.

9. Answering paragraph 9, Amazon.com admits that it issued a press release on August 26, 2003 on its website www.amazon.com and that the press release speaks for itself. Amazon.com denies each and every other or different allegation in this paragraph.

10. Answering paragraph 10, Amazon.com admits that it issued a press release on August 26, 2003 on its website www.amazon.com and that the press release speaks for itself. Amazon.com denies each and every other or different allegation in this paragraph.

11. Answering paragraph 11, Amazon.com admits that it created a webpage Stop Spoofing, located at www.amazon.com/stopspoofing, which speaks for itself. Amazon.com denies each and every other or different allegation in this paragraph.

Case No. 03-2227-Civ-Gold/Simonton

12. Answering paragraph 12, Amazon.com admits that it created a webpage Stop Spoofing, located at www.amazon.com/stopspoofing, which speaks for itself. Amazon.com denies each and every other or different allegation in this paragraph.

13. Answering paragraph 13, Amazon.com denies each and every allegation therein.

14. Answering paragraph 14, Amazon.com denies each and every allegation therein.

15. Answering paragraph 15, Amazon.com lacks information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies the same.

16. Answering paragraph 16, Amazon.com denies each and every allegation therein.

17. Answering paragraph 17, Amazon.com admits that the Press Release and webpage Stop Spoofing are still accessible on www.amazon.com. Amazon.com denies each and every other or different allegation in this paragraph.

18. Answering paragraph 18, Amazon.com lacks information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies the same.

Case No. 03-2227-Civ-Gold/Simonton

19. Answering paragraph 19, Amazon.com lacks information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies the same.

DEFAMATION

20. Answering paragraph 20, Amazon.com realleges and incorporates its responses to paragraphs 1 through 19 above.

21. Answering paragraph 21, Amazon.com denies each and every allegation therein.

22. Answering paragraph 22, Amazon.com denies each and every allegation therein.

23. Answering paragraph 23, Amazon.com denies each and every allegation therein.

24. Answering paragraph 24, Amazon.com denies each and every allegation therein.

AFFIRMATIVE DEFENSES

BY WAY OF FURTHER ANSWER AND AFFIRMATIVE DEFENSE, plaintiff/Counter-Defendant Amazon.com alleges as follows, without assuming the burden of proof as to any such defense:

1. RTHI has failed to state a claim on which relief can be granted.

Case No. 03-2227-Civ-Gold/Simonton

2. Amazon.com has privileges under the United States Constitution, the Washington State Constitution, the Florida State Constitution, and the common law, which bars RTHI's cause of action.

3. RTHI's damages, if any, must be reduced or barred by its failure to mitigate its damages.

4. RTHI's cause of action and its damages, if any, are barred by the doctrines of waiver and/or estoppel.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff/Counter-Defendant Amazon.com requests the following relief:

- A. that RTHI's Counterclaim be dismissed with prejudice;
- B. that Amazon.com be awarded its costs, expenses, and attorneys' fees in defending RTHI's Counterclaim; and
- C. that the Court award Amazon.com such other relief as is just and equitable.

Case No. 03-22270-CIV-Gold/Simonton

Dated: December 3, 2003
Miami, Florida

Respectfully submitted,

/s/

Harry R. Schafer (Fla. Bar No. 508667)
Ismael Diaz (Fla. Bar No. 0575771)
KENNY NACHWALTER SEYMOUR ARNOLD
CRITCHLOW & SPECTOR, P.A.
201 South Biscayne Boulevard
1100 Miami Center
Miami, Florida 33131-4327
Telephone: (305) 373-1000
Facsimile: (305) 372-1861
E-mail: hschafer@knsacs.com
E-mail: idiaz@knsacs.com

Attorneys for Plaintiff Amazon.com, Inc.

Of Counsel:

David A. Zapolsky, Associate General Counsel
Kathryn M. Sheehan, Corporate Counsel
Amazon.com, Inc.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served via Facsimile and United States mail on December 3, 2003 on all other parties and counsel of record on the attached Service List.

/s/

Ismael Diaz

Case No. 03-22270-CIV-Gold/Simonton

SERVICE LIST
Case No. 03-22270-Civ-Gold/Simonton
Amazon.Com. Inc. v. Rockin Time Holdings, Inc. et al.

Harry R. Schafer, Esq.
Ismael Diaz, Esq.
KENNY NACHWALTER SEYMOUR ARNOLD
CRITCHLOW & SPECTOR, P.A.
1100 Miami Center
201 South Biscayne Boulevard
Miami, Florida 33131-4327
Counsel for Plaintiff
Telephone: (305) 373-1000
Facsimile: (305) 372-1861
E-mail: hschafer@knsacs.com
E-mail: idiaz@knsacs.com

Robert Harris, Esq.
STACK FERNANDEZ ANDERSON
& HARRIS, P.A.
1200 Brickell Avenue, Suite 950
Miami, Florida 33131
Counsel for Defendants
Telephone: (305) 371-0001
Facsimile: (305) 371-0002
E-mail: rharris@stackfernandez.com